

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

CECELIA TINNEY,

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Plaintiff,

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vs.

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No. 3:06CV596-SRW

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LEXINGTON INSURANCE
COMPANY,

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Defendant.

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MOTION TO REMAND

COMES NOW Plaintiff and respectfully moves this Court to remand this action to the Circuit Court of Randolph County, Alabama, where it was originally filed. As grounds for this Motion, the Plaintiff shows unto this Court as follows:

1. This case was originally filed in the Circuit Court of Randolph County, Alabama, on or about May 1, 2006.

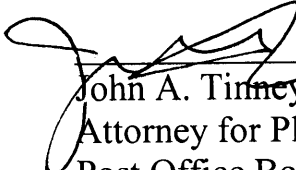
2. On or about July 5, 2006, Defendant filed its Notice of Removal alleging that this Court has jurisdiction over this matter based on diversity jurisdiction. Defendant alleges that Plaintiff and Defendant are residents of different states and that the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs.

3. There is no diversity jurisdiction because the amount in controversy does not exceed \$75,000 exclusive of interest and costs. Attached hereto is the affidavit of John A. Tinney, Attorney for Plaintiff. In the affidavit, the Plaintiff conclusively establishes that at the time this lawsuit was filed, there was no intention on her part to recover in excess of \$75,000, exclusive of interest and costs. The Plaintiff conclusively establishes that she will not ask for nor accept more than the sum of \$75,000, exclusive of interests and costs.

4. Because the amount in controversy does not exceed \$75,000 exclusive of interest and costs, this Court does not have jurisdiction over this case.

WHEREFORE, Plaintiff Cecelia Tinney moves this Court to remand this case to the Circuit Court of Randolph County, Alabama, where it was originally filed because this Court lacks subject matter jurisdiction over this controversy.

Respectfully submitted this the 13th day of July, 2006.



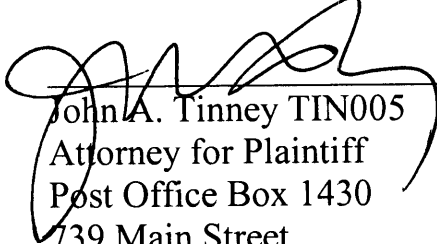
John A. Tinney TIN005
Attorney for Plaintiff
Post Office Box 1430
739 Main Street
Roanoke, Alabama 36274
(334) 863-8945

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by faxing or by depositing a copy of the same in the United States Mail, in an envelope with adequate postage prepaid thereon and properly addressed to him.

James w. Lampkin II
William C. Grayson
Alford, Clausen & McDonald, LLC
One St. Louis Centre, Suite 5000
Mobile, Alabama 36602

Done this 13th day of July, 2006.



John A. Tinney TIN005
Attorney for Plaintiff
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